

REMARKS

A. The Section 103(a) Rejections

Claims 1 and 4-15 were rejected under 35 U.S.C. §103(a) based on the combination of U.S. Patent No. 6,067,458 to Chen (“Chen”) and U.S. Patent No. 6,044,272 to Kobylinski et al (“Kobylinski”). Applicants respectfully disagree and traverse these rejections for at least the reasons set forth below.

(i.) Claims 1 and 4-12

Each of claims 1 and 4-12 include the feature of a mobile station that reports channel quality information at a first rate, in the absence of a reception of a data transmission from a base station, and, upon detection of a reception of a data transmission from the base station, at a second rate for a prescribed duration.

The Examiner acknowledges that Chen fails to disclose or suggest the reporting features in claims 1 and 4-12. To make up for this deficiency the Examiner now relies upon Kobylinski. However, as the Examiner acknowledges in the Office Action it is only after a base station receives data, not a mobile, that the mobile is instructed to change its reporting rate. Further, as the Applicants have explained in detail before (see Applicants’ appeal brief dated February 28, 2005), the claims are directed at a mobile changing its reporting rate after receiving data transmissions from a base station, not instructions.

Because the combination of Chen and Kobylinski fail to disclose or suggest the features of claims 1 and 4-12 this combination of references does not render these claims obvious under §103(a).

(ii.) Claims 13-15

Each of claims 13-15 include the feature of a method that allows a mobile to vary the rate at which it reports channel quality information to a base station. More specifically, the rate is varied as a function of the number of base stations that the mobile station is communicating with. The Examiner acknowledges that Chen does not disclose or suggest such reporting and relies upon Kobylinski to make up for this deficiency.

However, Kobylinski appears to be unrelated to claims 13-15. More particularly, the excerpts from Kobylinski cited by the Examiner in the Office Action as disclosing the variation of a reporting rate as a function of the number of base stations that a mobile station is communicating with (i.e., column 4, line 64 to column 5, line 11) do not appear to be related to the variation of a reporting rate. Instead, these excerpts appear to be related to the selection of one or more base stations by a mobile (“then utilize the reported received signal strength measurements and DVCC values to distinguish and identify plausible (and the optimal) base stations for handoff....”).

Because the combination of Chen and Kobylinski fail to disclose or suggest the features of claims 13-15 this combination of references does not render these claims obvious under §103(a).

Accordingly, Applicants respectfully request withdrawal of the rejections and allowance of claims 1 and 4-15.

Should there be any outstanding matters that need to be resolved in the present application the Examiner is respectfully requested to contact John E. Curtin at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC.

By  _____

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